

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

MAILBU MEDIA, LLC,

Plaintiff.

v.

ZIYI FU,

Defendant.

CASE NO. 1:18-cv-00060-LMB-TCB

DEFENDANT ZIYI FU'S MOTION TO QUASH SERVICE OF PROCESS

COMES NOW, Defendant, ZIYI FU, by counsel, pursuant to Fed. R. Civ. Pro. 12(b)(5) and for his Motion to Quash Service of Process in this action, states as follows:

1. Defendant Fu is a Chinese national, holding Chinese citizenship and traveling with a Chinese passport ending in -9476.
2. Defendant Fu traveled in the United States periodically from November 2013 through January 2018.
3. On January 24, 2018, Defendant Fu departed the United States for his home country of China, where he has resided continuously therefrom.
4. The instant action was filed January 12, 2018 against a John Doe, with intention of ascertaining the identity of the specific individual alleged to have committed the acts contained in the Complaint filed in this action.

5. On March 26, 2018, Plaintiff filed an Amended Complaint, identifying Defendant Fu.
6. On May 5, 2018, Plaintiff filed an Affidavit of Service evidencing substitute service by posting at an address Plaintiff associated with Defendant Fu. The Affidavit notes the presence of Halloween decorations on the entrance to the residence, even though it was May. Further, in all attempts at service at this address, no sounds or other evidence of occupancy were observed.
7. In fact, Defendant Fu was not living at that address during any period when service was attempted in this action.
8. At the time service of the instant action was attempted, Defendant Fu was no longer in the United States.
9. Pursuant to Virginia Code §8.01-296(2)(a), substitute service of process by posting is only effective if the residence is the defendant's abode.
10. The residence at which substitute service was attempted was not Defendant Fu's abode at the time of such attempt at service.
11. Therefore, service of process in this action is defective and the Court lacks personal jurisdiction over Defendant Fu.

WHEREFORE, Defendant Fu prays this Honorable Court quash service of process in this action.

Respectfully submitted,
ZIYI FU
Defendant
By counsel

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LOCAL RULE 7(E) CERTIFICATION

I certify that on July 25, 2018, I attempted to meet and confer with counsel for the purpose of narrowing the issues presented here, and to obtain Plaintiff counsel's consent to the relief requested, in advance of filing this Motion. I was unable to narrow the issues or obtain the consent to the requested relief.

/S/ PETER J. GLAZER
Peter J. Glazer, Esq.

CERTIFICATE OF SERVICE

I certify that a true and complete copy of the foregoing *Defendant Ziyi Fu's Motion to Quash Service of Process* was served upon Counsel for the Plaintiff via the Court's CM/ECF system this 25th day of July 2018.

/S/ PETER J. GLAZER
Peter J. Glazer, Esq.